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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Policy and Rules Concerning)
Rates for Dominant Carriers)

CC Docket No.
87-313

Revisions to Price Cap Rules)
for AT&T)

CC Docket No.
93-197

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COMMENTS OF
THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel"), by its attorneys, respectfully submits these comments in response to the Commission's Further Notice of Proposed Rulemaking in the above-captioned dockets.¹

As CompTel explained in its comments in opposition to AT&T's motion for reclassification as a nondominant carrier, the Commission traditionally has considered relaxation of AT&T regulations on a market segment basis, thereby allowing it to take into account differences in AT&T's market power among particular types of services.² In the Further Notice, the Commission continues this approach by proposing to

¹ Further Notice of Proposed Rulemaking, FCC 95-198 (rel. May 18, 1995) (hereinafter "Further Notice").

² Further Comments of the Competitive Telecommunications Association in Opposition to the Motion for Reclassification of the American Telephone and Telegraph Company as a Nondominant Carrier, at 3-8, CC Docket No. 79-252, filed June 9, 1995 ("CompTel Opposition").

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clarify the treatment of AT&T "discount" MTS offers and to permit streamlined filing of short-duration offers. CompTel believes this incremental approach is an appropriate course of action. Because AT&T retains such a large market share and because it enjoys unique advantages as a result of its size and previous monopoly position, the Commission must give individual consideration to AT&T's power in each market segment. It therefore is appropriate for the Commission to tailor its regulations to address these advantages, rather than adopting "one size fits all" regulation of AT&T services.

CompTel supports the proposed definition of an alternative pricing plan ("APP") and also supports the proposal to permit AT&T to introduce short-duration APPs on a streamlined basis, but only if the Commission adopts additional protections to ensure that AT&T does not circumvent the Commission's intent to limit streamlining to plans which expire within 90 days. Further, streamlined filing should be available only for domestic MTS services; it should not be permitted for international MTS or calling card/operator services discount plans. The international and operator services markets remain subject to significant AT&T market power and therefore are unsuitable for streamlined regulation.

I. COMPTTEL SUPPORTS, WITH CERTAIN REVISIONS, THE COMMISSION'S PROPOSED REGULATION OF APPS FOR DOMESTIC MTS SERVICES.

The Further Notice proposes to eliminate the current, overlapping categories of optional calling plans ("OCPs") and "promotions," and replace them with a single category called an "alternative pricing plan" ("APP")³ In addition, the Further Notice proposes to permit AT&T to offer short-duration APPs -- i.e., those which expire in 90 days or less -- on a streamlined basis and without the showing required under AT&T price cap regulation.⁴ Subject to the additional revisions proposed below, CompTel believes these changes can be implemented without undue harm to competition. In particular, the use of a single "discount" category -- the APP -- will eliminate the confusing and essentially untenable distinction between what AT&T called a "promotion" and what it called an "optional" calling plan. In addition, by establishing more relaxed rules for short-term discount plans, the Commission can restore its original concept of an AT&T promotion: a short-term, special offer which allows AT&T to respond more quickly to market competition but does not allow it to subvert regulatory review of its practices.

CompTel can support this additional flexibility if it is limited to short-duration offers. Streamlining should permit

³ Further Notice at ¶ 37.

⁴ Id. at ¶48.

AT&T to react to market forces as quickly as is consistent with the public interest. It should not permit AT&T to avoid price caps by offering a plethora of "90 day" APPs all of which essentially offer the same type of alternative.⁵ Thus, to ensure that streamlined tariffs are reserved for short duration APPs, the Commission should adopt the following revisions to its proposal.

First, the Commission should clarify that the 90 day period for a streamlined APP is a 90 day service period. That is, the service and the rate must expire (absent a filing by AT&T to incorporate the plan in price caps) in 90 days. The APP cannot function as a 90 day sign-up window for a long term off-price cap service commitment. To accomplish this, CompTel suggests that the Commission add the following language immediately after the first sentence of proposed Section 61.58(c)(8): "An APP filed on a streamlined basis may not require or permit the customer to commit to a service period beyond the initial 90 day effective period of the APP."

⁵ For example, AT&T could maintain an alternative price outside of price caps longer than the 90 day period by altering the condition which triggers the alternative plan, but retaining the same price. During one period, the offer could be available to customers with a certain dollar amount in calls, then it could be available for a number of minutes roughly corresponding to that dollar amount, then it could be for an equivalent number of minutes to a "favorite" area code, etc. If this pattern were followed, AT&T could evade price cap review of the plan indefinitely.

Second, the Commission should prohibit AT&T from automatically transferring customers of an APP to any other service upon the expiration of the APP. An APP is to be a self-selected option, not a "teaser" to lure customers into a different AT&T plan. This could be accomplished by adding a sentence at the end of proposed Section 61.3(c) which reads, "An APP shall not include a deviation from basic schedule rates which, upon expiration of the plan, automatically converts an eligible customer to a different service."

Third, to prevent AT&T from transferring its customers from one streamlined APP to another, the Commission should require that a customer of an APP which was filed on a streamlined basis transfer, upon expiration of the APP, only to a service arrangement that is subject to price caps.⁶ Without this prohibition, AT&T could introduce another APP, market it to customers of a current APP, and keep its service arrangement with these customers outside the price cap structure. Therefore, CompTel recommends that the Commission prohibit AT&T from providing a service that is not incorporated within price caps to a customer of an APP at any time within 30 days after the expiration of the APP.

Finally, the Commission should not combine all existing domestic MTS service categories into one category. Instead,

⁶ This would include the customer's current APP, provided AT&T files to incorporate the plan within price caps.

CompTel suggests that all basic schedule rates be combined in one category, but that APPs remain a separate service category. If APPs and basic schedule rates were in the same category, AT&T could offset APP discounts with rate increases for low volume basic service customers. Not only would this harm low volume customers, over whom AT&T has more market power, but this also could be a source of a subsidy that would allow AT&T to offer a predatory price in more competitive segments of the market. Accordingly, the Commission should keep APPs separate from AT&T's basic service category.

II. THE COMMISSION SHOULD NOT MAKE ANY CHANGES TO ITS REGULATION OF AT&T INTERNATIONAL MTS OR OPERATOR SERVICE RATES.

The Further Notice sees comment on whether AT&T should be permitted to offer streamlined APPs for international MTS and calling card/operator services, in addition to domestic MTS services. CompTel opposes this suggestion. AT&T's market power in international services and operator services continues to be significant.⁷ AT&T carries 70 percent of the traffic to many large countries and, in operator services, remains the only IXC that can issue a proprietary calling card that uses the preferred "0+" dialing method.

Streamlining of APPs for these services is not justifiable in

light of this market power. Accordingly, the Commission should not extend its streamlining to AT&T's international MTS or calling card/operator services.

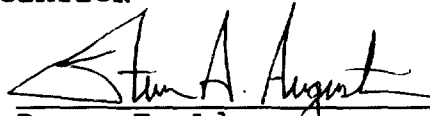
CONCLUSION

For the foregoing reasons, CompTel supports the Further Notice's proposed revisions to the regulation of AT&T discount plans for domestic MTS services, provided the Commission (1) clarifies that a streamlined APP is limited to a 90 day service period, (2) prohibits AT&T from automatically transferring APP customers to another AT&T service (3) prohibits AT&T from transferring APP customers to a plan not regulated under price caps, and (4) creates separate service categories for standard MTS services and APPs. CompTel opposes extending streamlined treatment to international MTS or calling card/operator services because AT&T continues to exert significant market power in these markets.

Respectfully submitted,

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